IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO. 17 OF 2006

FROM

NOTICE OF MOTION NO. 4805 OF 2004

IN

B.C.C.C. S.C. SUIT NO. 3340 OF 2004

Smt. Shanta, widow of P.V. Venkatesh .... Applicant

Vs.

M/s Deepti Air Systems & Fabricators & Ors. .... Respondents

Ms. Manjari Shah i/b Mr. S.D. Naik for Applicant.
Mr. M.P. Vashi for respondent no. 2.

M.H.I. Patel a/w S.N. Naik Asstt. Pro (Adm.), representative of Court Receiver.

CORAM : SHRI. A.M. KHANWILKAR, J.,
DATE : 2ND MARCH, 2007

P.C.

. After hearing counsel for the parties at length, the counsel for the parties have invited consent order from this Court in the following terms :

(a) The revision is allowed with no order as to costs. Impugned judgment and

order dtd. July 19, 2005 is set aside. Instead the Notice of Motion No. 4805 of 2004 is allowed on the terms mentioned hereinafter.

(b) Order passed by the trial Court dated 11/10/2004 permitting withdrawal of suit and consequential order of discharging Court Receiver, both these orders are set aside. Instead, suit No. 3340 of 2004 is restored to the file of the trial Court to its original number for being decided by the trial Court on its own merits uninfluenced by any observation in any of the orders or for that matter the arrangement arrived at between the parties before this Court. The arrangement arrived at before this Court is without prejudice to the rights and contentions of the respective parties on merits of the controversy. All issues on merits will have to be decided on its own merits.

(c) It is further ordered that status quo ante as obtained on the date of order dtd. 11th October 2004 is restored. In that, the Court Receiver, High Court, Bombay will

remain in possession of the suit premises Gala no. 46, situated in Nav Nandanvan Industrial Estate, Opp. Ralli Wolf, L.B.S. Marg, Mulund (W), Mumbai - 400 080 and deemed to have put plaintiff in possession thereof as agent of the Court Receiver on the terms and conditions spelt out in the order dtd. 15th July 2004.

(d) The plaintiff will abide by the obligations under order dtd. 15th July 2004 and his undertaking dtd. 20th July 2004 given to the Court Receiver, as the same stands revived in terms of this order.

(e) Defendant no.1 to file written statement before the trial Court on or before 12th March 2007. The parties will appear before the trial Court on 13th March 2007 for issuance of necessary directions in the suit consequent to the pleadings having been completed.

(f) The trial Court shall finally dispose of the restored suit expeditiously, preferably before end of December 2007. The parties undertake before this Court

through their counsel that they shall extend full co-operation to the trial Court for early disposal of the suit as High Court expedited matter.

(g) Any other issue with regard to breach of conditions provided in order dtd. 15th July 2004 or the undertaking dtd. 20th July 2004 by the plaintiff can be agitated before the trial Court, which will have to be decided on its own merits.

(h) It is clarified that possession of the Court Receiver is in continuation of the possession taken by him in terms of his report dtd. 20th July 2004. In other words, the parties are relegated to the situation as obtained on and after 20th July 2004.

. Revision disposed of on the above terms. This order is passed in the presence of both the parties and their counsel, who have invited this order after due deliberation.

(A.M. KHANWILKAR, J.)